Guide to making a Will

The following guide will explain the main issues to be thought about when drawing up a Will.

We strongly recommend that you use a solicitor or another properly qualified professional Willwriter to draw up your Will.

Why bother to make a Will?
Making a Will is the only way you can be sure that your wishes will be followed after you die. If you die without a Will the laws of intestacy determine who will inherit. This may not be what you were expecting or what you wanted.

It is essential to write a Will if you want to be sure that the people you wish to benefit are the ones who do. Not only that, but Inheritance Tax legislation means that if you do not prepare properly, a substantial part of what you leave behind may go to the state.

How to I make a Will?
It is easy and relatively inexpensive to have a Will drafted by a properly qualified professional. You should check that the professional you choose

- has been trained and is qualified in making Wills;
- has undertaken ongoing training in making Wills;
- has professional indemnity insurance of at least £2 million; and
- is a member of an organisation that has an independent complaints procedure.

Solicitors who are members of the Society of Trust and Estate Practitioners, and Willwriters who are members of the Institute of Professional Willwriters meet these requirements.

What about home-made or online Wills?
While it is possible to draw up your own Will, they can be complex and some mistakes can make the Will invalid. If this happens, long and expensive court cases to resolve matters may result.

Increasingly it is possible to get your Will written online, but you should remember that a Will is an individual, personal document that is tailored to suit your particular needs and it may be difficult for an online system to cater for this.

What should I consider when writing a Will?
Wills are not solely about passing on your assets. You can also include specific funeral arrangements: for instance, burial, cremation or the use of your body for medical research. You may also want to appoint legal guardians to care for your children if you and their other parent should die before they are 18.

You can make provision for the age at which young beneficiaries receive their gift or share of your estate. You can also effectively provide for any beneficiaries
with particular needs and for beneficiaries with means tested health provision or care provision.

One other important consideration is the appointment of your executors – the people who will deal with your estate when you die. Ideally, these should be business-minded family or friends or they can be professional advisers. If you want to appoint a professional adviser as an executor make sure you find out their charges first.

**What else can I include in my Will?**
You may choose to use your Will to pass on business interests: for instance, you could leave shares in the family company to a son or daughter who has come into the business. This is a very tax-efficient way to leave your assets to your intended beneficiaries. Personal items, like jewellery, paintings and heirlooms, can also be left in a Will, as can any gifts you wish to make to charity.

**Can I leave money to YoungDementia UK in my Will?**
Yes. In fact many people choose to leave something in their Will to their favourite cause or causes after they have made provision for their family and loved ones.

There are three types of gift. You can

- leave a share of your estate (a residuary gift);
- leave a fixed amount of money (a pecuniary gift); or
- leave a particular item (a specific gift).

The donation can be as small or large as you like, but whatever the size it will mean that YoungDementia UK will be supported after your death, and you can be sure that your legacy will be used to provide vital support for younger people with dementia and their families.

**What about Inheritance Tax?**
Inheritance Tax (IHT) is the tax that is paid on your estate when you die, as well as on some assets that you may have given away during your lifetime.

Under current legislation, if the estate you leave behind is less than the nil-rate band there will be no IHT to pay, assuming that you have made no gifts in the seven years before your death. However, if your estate is worth more than the nil-rate band, IHT will be payable on anything above this. The nil-rate band for the 2012-2013 Tax Year is £325,000 and the rate of tax is 40%.

If your estate is liable to Inheritance Tax, you could reduce the amount due by choosing to give money to YoungDementia UK or any other charity. There are many exemptions from IHT, including gifts to a spouse or charity. Further details are available on the Inland Revenue [website](#).

Since October 2007, any unused nil-rate band from a late spouse or civil partner can be transferred to the surviving spouse or civil partner when they die. In effect, this increases the nil-rate band for the surviving partner. Inheritance Tax is a complex subject, and if you have a potentially large estate you should seek professional advice.
What happens if my circumstances change?
You can easily change your Will at any time and it is important to think about your Will regularly. You should always review your Will when your family circumstances change, for example if you get married any Will you have made is automatically revoked.

Lasting Power of Attorney
Once you have made a Will you will be able to enjoy the reassurance of knowing that your affairs will be taken care of after your death. But you can also set up an arrangement to appoint people to look after either your financial or personal affairs or both, if you become incapable of doing so yourself during your lifetime. This is known as a Lasting Power of Attorney (LPA) and it ensures that your affairs will always be taken care of by one or more of the attorneys chosen by you to safeguard your interests.

How does a Lasting Power of Attorney work?
An LPA is a legal document and there are two different types that you can set up

- Property and Affairs LPA, in which you choose one or more people to deal with your financial affairs; and
- Personal Welfare LPA, in which you choose one or more people to deal with your personal affairs, such as decisions about your healthcare and welfare.

The two LPAs are separate and you can appoint different people for each area. Neither document can be used until it has been registered with the Office of the Public Guardian, and a Personal Welfare LPA can only be used if you do not have the capacity to make decisions about your own healthcare and welfare.

Trusts
Most Wills are straightforward but sometimes there is the need for additional documentation, which may involve setting up a Trust. There are many reasons for setting up a Trust, including

- tax planning to ensure that no more tax is paid than is necessary;
- making arrangements for beneficiaries who are under 18 years of age;
- making proper provision for children of a former marriage; and
- minimising the impact of the cost of care provision.

Estate planning and the creation of Trusts takes place against the background of constantly changing legislation, and so it is important that you take proper professional advice before deciding which type of Trust, if any, best suits your circumstances.

Next steps
To find a qualified solicitor or Willwriter in your area see the Society of Trust and Estate Practitioners at www.step.org or the Institute of Professional Willwriters at www.ipw.org.uk.